

REMARKS

Claims 11-32 are pending in this application. By this Amendment, claim 11 is amended, new claims 16-32 are added, and claims 1-10 are canceled without prejudice to or disclaimer of the subject matter set forth therein. Support for the amendments to claim 11 can be found in the specification as originally filed, for example, in paragraphs [0016], [0017] and [0024]-[0026], and in original claims 1-11. Support for new claims 16-32 can be found in the specification as originally filed, for example, in paragraphs [0002], [0024], [0025] and Tables 1 and 2. No new matter is added by this Amendment.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Salimi during the April 18 telephonic interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks. In the interest of furthering prosecution, Applicants respectfully request that the Examiner contact Applicants' representative for a further interview prior to acting on this case.

I. 35 U.S.C. §112

The Office Action rejects claims 6-15 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. While Applicants do not necessarily agree with these rejections, claims 6-10 are canceled herein, rendering the rejections of claims 6-10 moot, and claim 11 is amended to more clearly set forth the subject matter therein.

In particular, the Office Action asserts that claim 11 and its dependent claims are vague and indefinite because the "intended metes and bounds of the '[medicinal] composition' is not defined." Herein, independent claim 11 is amended to require "administering to a patient a medicinal composition that comprises, as an active ingredient, an extract from inflamed tissue inoculated with vaccinia virus." Applicants respectfully submit that amended claim 11 is identical in scope to original claim 11 and that the scope of the amended claim

would be clear to one of ordinary skill in the art, as required by 35 U.S.C. §112, second paragraph and discussed in MPEP §2171 and §2173.02. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

II. 35 U.S.C. §102

The Office Action rejects claims 1-10 under 35 U.S.C. §102(b) over Matsuoka et al. The Office Action also rejects claims 1-10 under 35 U.S.C. §102(b) over Yoshi et al. While Applicants do not necessarily agree with these rejections, claims 1-10 are canceled herein, and the rejections of these claims are therefore moot. Withdrawal of the rejections is respectfully requested.

III. New Claims

By this Amendment, new claims 16-32 are added. New claims 16 and 21 are independent claims, and new claims 17-20 and new claims 22-32, respectively, depend from and incorporate all of the limitations of claims 16 and 21.

New independent claims 16 and 21 each set forth, in pertinent part, a method “comprising: administering to a patient a medicinal composition that comprises, as an active ingredient, an extract from inflamed tissue inoculated with vaccinia virus.” That is, claims 16 and 21 each set forth the step of “administering to a patient a medicinal composition that comprises, as an active ingredient, an extract from inflamed tissue inoculated with vaccinia virus,” which is also set forth in allowable independent claim 11. Applicants respectfully submit that, for at least the same reasons set forth above with respect to claim 11, independent claims 16 and 21, and their dependent claims, are patentable over the references of record.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 11-32 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JML/ccs

Attachment:
Amendment Transmittal

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